

HOUSE BILL 2414

By McDonald

AN ACT to amend Chapter 306 of the Private Acts of 1951; as amended by Chapter 451 of the Private Acts of 1953; Chapter 188 of the Private Acts of 1969; Chapter 182 of the Private Acts of 1980; Chapter 140 of the Private Acts of 1986; Chapter 158 of the Private Acts of 1994; Chapter 126 of the Private Acts of 1998 and Chapter 11 of the Private Acts of 2003; and any other acts amendatory thereto, relative to the charter for the Town of Westmoreland.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 306 of the Private Acts of 1951, and any other acts amendatory thereto, is amended in Article I by deleting Section 3 in its entirety and by substituting instead the following:

Section 3. The corporate authority of such town shall be vested in a mayor, and a town council, consisting of five (5) aldermen.

SECTION 2. Chapter 306 of the Private Acts of 1951; as amended by Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article II, Section 1, by deleting subdivisions (19) and (20) in their entirety and by renumbering the subsequent subdivisions accordingly.

SECTION 3. Chapter 306 of the Private Acts of 1951; as amended by Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article II, Section 1, by deleting the following language from subdivision (22):

To make regulations to prevent the introduction or spread of contagious or infectious diseases in the Town; to make quarantine laws for that purpose, and to enforce the same to the distance of two (2) miles from the town; to create a Board of Health and a Health Department, and to establish, build and regulate hospitals and pest houses".

AND FURTHER AMEND by substituting instead the following new language:

To comply with state department of health rules regarding isolation or quarantine of contagious or infectious diseases as required by general law.

SECTION 4. Chapter 306 of the Private Acts of 1951; as amended by Chapter 182 of the Private Acts of 1980, Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article II, Section 1, by deleting subdivisions (23) and (24) in their entirety and by substituting instead the following:

(23) To regulate, fine and suppress all disorderly houses, assignation or bawdy houses, and gambling houses; to impose fines, forfeitures, and penalties for the breach of, or to enforce, any ordinance and to provide for their recovery and appropriation; to provide for the arrest and confinement until trial of all persons violating any ordinances of the town; to prevent and punish by pecuniary penalties and fines all breaches of the peace, noises, disturbances, disorderly assemblies, or other misdemeanors in the town at any time; to erect, purchase, rent or otherwise acquire, and organize and regulate a workhouse in or near said town and any person who shall fail, refuse or neglect to pay or secure any fine or costs imposed upon him under any ordinance of the town, shall be committed to said workhouse or the Sumner County Jail until such fine and costs be fully paid or served out, if served without working; every person committed to the workhouse for failure to pay or secure a fine and costs, may, if physically able to do so, be required to work for the town within or without the workhouse; fines, forfeitures and penalties for the breach of the laws and ordinances of said town may be recovered before the town recorder or before the Court of General Sessions of Sumner County, Tennessee, and said recorder or Court of General Sessions shall have the power to issue process, either summons or capias or subpoena, render judgment, issue executions, demand bail, fine for contempt, or commit to the workhouse or county jail as herein provided, and any person dissatisfied with the judgment of the recorder or the Court of General Sessions in any case or cases heard and determined by such recorder or the Court of General

Sessions, may within ten (10) entire days thereafter, Sunday excluded, appeal to the next term of the Circuit Court of Sumner County, Tennessee, upon giving bond with good and sufficient security approved by the recorder or Court of General Sessions for such person's appearance or faithful prosecution of the appeal, provided, however, that in prosecution for the violation of the town ordinances, the bond shall not exceed two hundred fifty dollars (\$250). Ordinances of the town imposing fines, penalties and forfeitures shall be construed remedially and all process issued by the mayor, recorder or other officers of the town, or the Court of General Sessions, may be directed to the chief of police of said town or any constable of Sumner County, who shall execute and return same as any other process and may be amended from time to time to promote the attainment of justice.

(24) To enforce any ordinance, rule or regulation by means of fines, forfeitures and penalties, or by action or proceedings in any court of competent jurisdiction, or by any one (1) or more of such means and to impose costs as a part thereof but no fine, forfeiture or penalty shall exceed fifty dollars (\$50);

SECTION 5. Chapter 306 of the Private Acts of 1951; as amended by Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article II, Section 1, by deleting subdivision (25) in its entirety and by renumbering the subsequent subdivisions accordingly.

SECTION 6. Chapter 306 of the Private Acts of 1951; as amended by Chapter 182 of the Private Acts of 1980; and any other acts amendatory thereto, is amended by deleting Article III, Section 1 in its entirety and by substituting instead the following:

Section 1. The governing body of such municipality shall be known as the "town council," and shall be composed of a mayor and five (5) aldermen; the other officers of such municipality shall be a recorder, a treasurer, a town judge, and a town attorney.

SECTION 7. Chapter 306 of the Private Acts of 1951; as amended by Chapter 140 of the Private Acts of 1986; Chapter 11 of the Private Acts of 2003; and any other acts amendatory thereto, is amended in Article III, Section 3 by deleting the last sentence in its entirety.

SECTION 8. Chapter 306 of the Private Acts of 1951; as amended by Chapter 451 of the Private Acts of 1953; Chapter 182 of the Private Acts of 1980; Chapter 140 of the Private Acts of 1986; Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article III by deleting Section 5 in its entirety and by substituting instead the following:

Section 5. At the town council on January 1, 1973, and at any regular or special meeting thereafter as necessary, the town council shall appoint a town recorder, town treasurer, town attorney, and a town judge. Appointed officers shall not be required to be residents of the Town of Westmoreland at the time of their appointment in order to be eligible for such offices, but it shall be their duty to establish and maintain a bona fide residence within two (2) miles of the town limits within ninety (90) days from the date of their appointment. However, the town attorney and town judge shall not be required to be a resident of Westmoreland or Sumner County. Persons appointed to any of the offices shall be required to devote as much of their time as shall be necessary to perform properly the duties of the office to which appointed. If, for any reason, the town council fails to appoint any or all of the officers listed in this section at the time stated, it may do so at any subsequent regular meeting of the town council. Officers appointed as specified herein shall serve at the pleasure of the town council, as shall all employees of the town.

SECTION 9. Chapter 306 of the Private Acts of 1951; as amended by Chapter 188 of the Private Acts of 1969; Chapter 140 of the Private Acts of 1986; Chapter 158 of the Private Acts of 1994; Chapter 126 of the Private Acts of 1998; and any other acts amendatory thereto, is amended in Article III by deleting Section 8 in its entirety and by substituting instead the following:

Section 8. Beginning January 1, 1999, the salary of the mayor shall be three-thousand six hundred dollars (\$3,600) per year and the salary of each alderman shall be six-hundred dollars (\$600) per year, said salaries to be paid in equal monthly installments. Beginning January 1, 2011, the salary of the mayor shall be seven thousand two hundred dollars (\$7,200) per year and the salary of each alderman shall be one thousand two hundred dollars (\$1,200) per year, said salaries to be paid in equal monthly installments. Beginning June 30, 2000, the salary of the mayor and aldermen may be adjusted by ordinance; provided, however, the salary of the mayor and aldermen shall not be changed during the term of office. In addition, the mayor and aldermen may be reimbursed for actual and necessary expenses incurred in the performance of their official duties, provided that such expenses are approved by the town council at one of its regular meetings.

SECTION 10. Chapter 306 of the Private Acts of 1951; and any other acts amendatory thereto, is amended in Article III by deleting Section 11 in its entirety and by substituting instead the following:

Section 11. The mayor shall preside at all meetings of the town council and shall vote only in the event of a tie vote, except in the appointment of town officers when the mayor shall vote as other members of the council.

SECTION 11. Chapter 306 of the Private Acts of 1951; and any other acts amendatory thereto, is amended in Article III by deleting Section 18 in its entirety and by substituting instead the following:

Section 18. The mayor or any alderman may be removed from office by the town council for any crime or misdemeanor in office or for grave misconduct showing unfitness for public service or for permanent disability, by a majority of the other members of the town council voting for such removal. The proceedings for such removal shall be upon specific charges in writing which, with a notice stating the date and place of the hearing, shall be served upon the accused or published at least once a

week for three (3) consecutive weeks in a newspaper published in Sumner County. The hearing shall be public, and the accused shall have the right to appear and defend in person or by counsel and have process of the town council to compel the attendance of witnesses in his behalf. Such vote shall be by yeas and nays and the names of the members voting for or against such removal shall be included in the minutes.

Immediately upon the vote in favor of removal, the term of office of the accused shall expire and his official status, power, and authority shall forthwith cease without further action. Anyone removed hereunder shall have the right to appeal to the Circuit Court of Sumner County by filing the customary appeal bond, but he shall not exercise any of the functions of said office during the time that said appeal is pending and his compensation shall be withheld pending final adjudication; the Circuit Court of Sumner County is hereby given jurisdiction to hear and determine such cases.

SECTION 12. Chapter 306 of the Private Acts of 1951; as amended by Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article V by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. The mayor shall preside at all meetings of the town council and shall perform such other duties consistent with his office as may be imposed by the town council, and he shall have a seat, a voice, but no vote, except for the purpose of breaking a tie, and in the appointment of the officers of the town, when he shall vote as other members of the council.

(a) The mayor:

(1) Shall be the chief executive officer of the town and shall preside at all meetings of the council;

(2) Shall communicate any information needed, and recommend all measures the mayor deems expedient to the board;

(3) Shall make temporary appointments, subject to the confirmation of the town council, of any officer or department head in case of sickness, absence or other temporary disability; and

(4) Shall sign all checks or orders drawn on the treasurer, and shall sign the minutes of the town council and all ordinances and resolutions upon their final passage and shall execute all deeds, bonds, and contracts made in the name of the town, and his signature shall be attested by the recorder. The mayor may introduce ordinances and resolutions in the town council.

(b) Unless otherwise designated by the town council, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Shall recommend to the town council the employment, promotion, discipline, suspension and discharge of all employees and department heads. The council may accept the recommendations of the mayor or take other action in accordance with personnel policies and procedures, if any, adopted by the town council;

(2) Shall act as purchasing agent for the town in the purchase of all materials, supplies, and equipment for the proper conduct of the town business. All purchases shall be in accordance with policies, practices and procedures established by the town council and by Tennessee Code Annotated, Title 6, Chapter 56;

(3) Shall prepare and submit the annual budget and capital program to the town council for their adoption by ordinance; and

(4) Perform such other duties as designated or required by the town council.

SECTION 13. Chapter 306 of the Private Acts of 1951; and any other acts amendatory thereto, is amended in Article V, Section 4, by deleting the first sentence in its entirety and by substituting instead the following:

The mayor shall have the right to veto within seven (7) calendar days, any ordinance or resolution passed by the town council; he shall enter his reasons for such veto on the minutes of the proceedings.

SECTION 14. Chapter 306 of the Private Acts of 1951; as amended by Chapter 182 of the Private Acts of 1980; Chapter 158 of the Private Acts of 1994; and any other acts amendatory thereto, is amended in Article VI by deleting Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 10a and 12 in their entirety and by substituting instead the following:

Section 1. The town council shall fix the salaries of all members thereof, but not to exceed the limits fixed in this act and shall fix the salaries of all town officers and employees of the town. The town council shall fix the duties of all officers and employees of the town, and may define the duties of all the officers not inconsistent with provisions of this Charter.

Section 2. No person shall be eligible for the office of recorder who holds any other public office and unless he has been a bona fide citizen and resident of the town for six (6) months previous to and next before his appointment. The recorder shall be under the authority of the town council and he is to obey and carry out all reasonable orders, rules and regulations of the town council. If he refuses or willfully neglects to carry out or comply with any reasonable order, rule or regulation of the town council, he shall be removed from office. If for any reason the recorder becomes unable to carry out the duties of his office in a businesslike and efficient manner, he shall forfeit his office and be removed by the town council as herein provided.

Section 3. The recorder shall have charge of the financial affairs of the town, including the efficient keeping and supervising of all accounts and books of the town, including the books of the water and electric departments; the supervision and

disbursement of funds and money and the collection of all money due the town and shall sign all checks or orders on the treasurer; he shall require proper fiscal accounts, records and reports to be made to his office by the several departments, officers and employees of the town; he shall at least monthly, and more often if he deems it advisable, require settlements from the officers and employees charged with the collection of any revenue of the town; he shall approve for payment all bills and accounts against the town and perform such other duties as the town council may by ordinance require. The recorder shall, before entering upon his duties, enter into a bond to be approved by the town council payable to the town of Westmoreland, and its successors, in a sum to be fixed by the town council, which shall not be less than five thousand dollars (\$5,000) conditioned for the faithful performance of his duties, and for regular monthly settlements with the treasurer, and to faithfully account for and pay over all monies by him collected or that shall come into his hands.

Section 4. The recorder shall keep the records of the town council and perform such other duties as may be required of him by the council. He shall receive a salary to be fixed by the town council and give bond as hereinabove provided. He shall, by his signature and the seal of the town, which seal shall be in his keeping, attest all instruments filed in the name of the town and all official acts of the mayor. He shall have authority to administer oaths and affirmations and to take depositions and shall have power to accept service of process and he shall be present at all meetings of the town council and shall keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form. He shall have custody of and preserve in his office the seal of the town, the public records, original rules and ordinances, ordinance books and minute books of the town council, all contracts, bonds, title deeds, certificates and papers of official indemnity, or security bonds (except his own bond, which shall be kept in the custody of the mayor) and all other records, bonds, oaths and affirmations, papers and documents not required by this charter or by ordinance to be deposited

elsewhere; he shall provide, and when requested by any officer or person, certify copies of records, papers and documents in his office and charge therefore for the use of the town, such fees as may be provided by ordinance, and have copies of ordinances printed as may be directed by the town council. He shall be the general accountant of the town, shall have custody of all records, papers and vouchers relating to the fiscal affairs of the town, and the records in his office shall show the financial operation and conditions of the property, assets, claims and liabilities of the town, all expenditures authorized and all contracts in which the town is interested. He shall make a yearly report showing in full detail the financial condition of the town, which shall be published in pamphlet form in the number required by the town council for distribution. He shall cause an efficient system of accounting to be installed and maintained.

Section 5. The recorder shall keep or cause to be kept the town court docket or dockets embodying complete detailed records of all cases tried and determined in court.

Section 6. The town council shall have the authority to create the office of town judge, if it sees fit, and to vest in such officer the judicial duties set forth herein.

Section 7. The town judge shall preside over the town court and shall have jurisdiction in and over all cases for the violation of, and offenses against, and in all cases under the laws and ordinances of the town of Westmoreland and such other jurisdiction as is conferred by the general laws of the state. The judge shall have concurrent jurisdiction with the Court of General Sessions of Sumner County in all cases of a criminal nature arising within the limits of the town, subject to regulation by the laws that govern proceedings before such court, and for this purpose may use the town jail, and may send police officers into any part of Sumner County, to execute process in such cases, which police officers are hereby authorized and empowered to execute and return according to the laws governing constables in like cases.

Section 8. The judge shall have power and authority to impose fines, costs and forfeitures, to punish by fine all violations of the town ordinances; to preserve and

enforce order in court and to enforce the collection of such fines, costs and forfeitures imposed by him. He shall have the power and it shall be his duty to commit offenders to the town workhouse or other places provided for such purposes to do such labor as may be provided by ordinance until such fines, costs and forfeitures shall be fully paid and provided further that no fine shall exceed fifty dollars (\$50.00).

Section 9. Only one (1) warrant shall be issued for the same offense, such warrant to embrace all parties charged with the same offense.

Section 10. All fines imposed for the violation of the town ordinances shall belong to the town and shall be collected by the police chief, to be reported by him in his monthly reports and paid over to the recorder, and all labor performed in the execution of workhouse sentences for the violation of ordinances shall be performed for the town.

Section 12. The town attorney shall direct the management, under the supervision of the town council, all litigation in which the town is a party, including the function of prosecuting attorney in the town court when it is necessary; he shall represent the town in all legal matters and proceedings in which the town is a party or is interested, or in which any of its officials are officially interested; attend all regular meetings of the town council, advise the council, its members and committees, and the heads of all departments as to all legal questions affecting the town's interest, and shall approve as to form, all contracts, deeds, bonds, ordinances, resolutions and other documents to be filed in the name of, or made by or with the town.

SECTION 15. Chapter 306 of the Private Acts of 1951; as amended by Chapter 182 of the Private Acts of 1980; and any other acts amendatory thereto, is amended in Article VII by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. The collection of all taxes, including privilege taxes and special assessments shall be in charge of the recorder, subject to the limitations of this chapter. For the purpose of collecting privilege taxes due the town, the recorder shall have the same right and power to issue distress warrants as collectors of privilege taxes for state

and county purposes, which warrants shall be directed to the chief of police. All property, real, personal and mixed, subject to state, county and town taxes, and all privileges taxable by law shall be taxed and the taxes thereon collected by the town for municipal purposes as hereinafter provided. An ad valorem tax upon stocks, accounts and equipment may be assessed and collected in like manner as state and county merchants' ad valorem tax is assessed and collected upon the same property. It shall be the duty of the county tax assessor and of the public utilities commission of Tennessee to prepare a separate assessment book or roll showing the real, personal and mixed property assessable by him or it lying within the limits of the town of Westmoreland, or to allow the recorder access to his or its records for the purpose of preparing same. The town council may provide compensation to said county tax assessor or to the utilities commission for furnishing the same. These records shall be certified to the recorder of the town upon the completion of the work of the state board of equalization and after they have been copied by the county court clerk of the county or the comptroller of the state. The town council shall have full power to assess taxes as of January 10th of each and every year, and shall also have full power to assess privileges.

SECTION 16. Chapter 306 of the Private Acts of 1951; and any other acts amendatory thereto, is amended in Article VII, Section 4, by deleting the language "polls," in the first sentence.

SECTION 17. Chapter 306 of the Private Acts of 1951; and any other acts amendatory thereto, is amended in Article VII, Section 7, by deleting the language "and polls" in the first sentence.

SECTION 18. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the town of Westmoreland. Its approval or nonapproval shall be proclaimed by the presiding officer of legislative body of the town of Westmoreland and certified to the secretary of state.

SECTION 19. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 18.